

AMENDED IN SENATE MAY 28, 2014

**SENATE BILL**

**No. 1379**

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**Introduced by Senator Huff**

*(Coauthors: Senators Berryhill, Cannella, Fuller, Gaines, Knight, Morrell, Nielsen, Vidak, Walters, and Wyland)*

February 21, 2014

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~~An act to amend Section 1748.1 of the Civil Code, relating to credit cards.~~ *An act to amend Sections 85305, 89513, and 89518 of, and to add Sections 84208, 85301.7, 85305.1, and 86205.5 to, the Government Code, and to amend Sections 68 and 86 of the Penal Code, relating to political reform, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1379, as amended, Huff. ~~Credit cards.~~ *Political reform.*

*Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions. The act imposes a contribution limit of \$3,000 on contributions made to, and received by, candidates for elective state offices that are not statewide elective offices. The act is administered and enforced by the Fair Political Practices Commission, which is authorized to adjust the contribution limit to reflect changes in the Consumer Price Index, as specified. The act does not limit the amount of contributions that a person may make to a committee that is primarily formed to support or oppose one or more ballot measures. The act prohibits a candidate for elective state office or a committee controlled by that candidate from making a contribution to another candidate for elective state office in excess of the contribution limit for elective state offices.*

*The act imposes various restrictions and reporting requirements on Members of the Legislature and candidates for either house of the Legislature, including prohibiting or restricting earned income from a lobbyist or lobbyist employer, restricting the receipt of gifts, and restricting the purposes for which campaign funds may be expended.*

*This bill would prohibit a person from making to a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures, and prohibit such a committee from receiving, a contribution in excess of the contribution limit for elective state offices, as specified. The bill would prohibit a candidate for any elective office, or the candidate's controlled committees, from making a contribution to another candidate for elective office or a committee controlled by a candidate that is primarily formed to support or oppose one or more ballot measures in excess of the contribution limit established for candidates for elective state office.*

*This bill would prohibit a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures from expending campaign funds to make a contribution or other transfer of campaign funds to a committee for a purpose other than supporting or opposing a ballot measure that the controlled committee was primarily formed to support or oppose.*

*This bill would prohibit a lobbyist or lobbyist employer from providing any compensation to a spouse or dependent of a Member or candidate, except as specified. The bill would prohibit campaign funds from being used to compensate a spouse or dependent of a Member of the Legislature or of a candidate for either house of the Legislature. The bill would prohibit the use of campaign funds from being used to pay a fine, a penalty, or legal fees arising out of a criminal violation or to pay a spouse or dependent of a Member of the Legislature or a candidate for either house of the Legislature, except as specified.*

*This bill would require a Member of the Legislature or a candidate for either house of the Legislature to report to the Secretary of State a contribution of one thousand dollars (\$1,000) or greater within three business days of receipt of the contribution.*

*A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.*

*Existing law subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district, and every executive or ministerial officer,*

*employee, or appointee of the state, a county or city, or political subdivision, who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison for 2, 3, or 4 years, and imposes prescribed restitution fines based on whether a bribe has actually been received.*

*This bill would increase the punishment to 4, 6, or 8 years in state prison and would increase the restitution fines to twice the original amount.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a <sup>2</sup>/<sub>3</sub> vote of each house and compliance with specified procedural requirements.*

*This bill would declare that it furthers the purposes of the act.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~The Song-Beverly Credit Card Act of 1971 generally regulates credit card transactions and prohibits a retailer in any sales, service, or lease transaction with a consumer from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means. The act requires a retailer who willfully violates this prohibition to be liable to the cardholder for 3 times the amount at which actual damages are assessed, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: ~~majority~~<sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *This act shall be known and may be cited as the*
- 2     *Legislative Reform and Transparency Act of 2014.*
- 3     SEC. 2. *Section 84208 is added to the Government Code, to*
- 4     *read:*

1 84208. In addition to any other reporting requirements of this  
2 title, a Member of the Legislature or a candidate for either house  
3 of the Legislature shall report to the Secretary of State a  
4 contribution of one thousand dollars (\$1,000) or greater within  
5 three business days of receipt of the contribution.

6 SEC. 3. Section 85301.7 is added to the Government Code, to  
7 read:

8 85301.7. A person shall not make to a committee controlled  
9 by a candidate for elective office that is primarily formed to support  
10 or oppose one or more ballot measures, and such a committee  
11 shall not accept from a person, a contribution in excess of the  
12 contribution limit established pursuant to subdivision (a) of Section  
13 85301, as adjusted by the Commission pursuant to Section 83124.  
14 The contribution limit described in this section shall be the  
15 aggregate amount of contributions that a candidate may accept  
16 for his or her controlled committees that are primarily formed to  
17 support or oppose one or more ballot measures, regardless of the  
18 number of such committees controlled by that candidate.

19 SEC. 4. Section 85305 of the Government Code is amended to  
20 read:

21 85305. A candidate for elective~~state~~ office or a committee  
22 controlled by that candidate~~may~~ shall not make~~any~~ a contribution  
23 to~~any other~~ another candidate for elective~~state~~ office or to a  
24 committee controlled by another candidate for elective office that  
25 is primarily formed to support or oppose one or more ballot  
26 measures in excess of the~~limits set forth in~~ limit established  
27 pursuant to subdivision (a) of Section~~85301~~. 85301, as adjusted  
28 pursuant to Section 83124.

29 SEC. 5. Section 85305.1 is added to the Government Code, to  
30 read:

31 85305.1. Notwithstanding any other provision of this title or  
32 Section 18680 of the Elections Code, a committee controlled by a  
33 candidate for elective office that is primarily formed to support or  
34 oppose one or more ballot measures shall not expend campaign  
35 funds to make a contribution or other transfer of campaign funds  
36 to a committee for a purpose other than supporting or opposing  
37 a ballot measure that the controlled committee was primarily  
38 formed to support or oppose.

39 SEC. 6. Section 86205.5 is added to the Government Code, to  
40 read:

1 86205.5. *A lobbyist or lobbyist employer shall not provide any*  
2 *compensation to a spouse or dependent of a Member of the*  
3 *Legislature or a candidate for either house of the Legislature,*  
4 *unless the compensation is for services performed in the ordinary*  
5 *course of business or employment that is unrelated to an election,*  
6 *campaign activity, or services provided for either house of the*  
7 *Legislature.*

8 *SEC. 7. Section 89513 of the Government Code is amended to*  
9 *read:*

10 89513. This section governs the use of campaign funds for the  
11 specific expenditures set forth in this section. It is the intent of the  
12 Legislature that this section shall guide the interpretation of the  
13 standard imposed by Section 89512 as applied to other expenditures  
14 not specifically set forth in this section.

15 (a) (1) Campaign funds shall not be used to pay or reimburse  
16 the candidate, the elected officer, or any individual or individuals  
17 with authority to approve the expenditure of campaign funds held  
18 by a committee, or employees or staff of the committee or the  
19 elected officer's governmental agency for travel expenses and  
20 necessary accommodations except when these expenditures are  
21 directly related to a political, legislative, or governmental purpose.

22 (2) For the purposes of this section, payments or reimbursements  
23 for travel and necessary accommodations shall be considered as  
24 directly related to a political, legislative, or governmental purpose  
25 if the payments would meet standards similar to the standards of  
26 the Internal Revenue Service pursuant to Sections 162 and 274 of  
27 the Internal Revenue Code for deductions of travel expenses under  
28 the federal income tax law.

29 (3) For the purposes of this section, payments or reimbursement  
30 for travel by the household of a candidate or elected officer when  
31 traveling to the same destination in order to accompany the  
32 candidate or elected officer shall be considered for the same  
33 purpose as the candidate's or elected officer's travel.

34 (4) Whenever campaign funds are used to pay or reimburse a  
35 candidate, elected officer, his or her representative, or a member  
36 of the candidate's household for travel expenses and necessary  
37 accommodations, the expenditure shall be reported as required by  
38 Section 84211.

39 (5) Whenever campaign funds are used to pay or reimburse for  
40 travel expenses and necessary accommodations, any mileage credit

1 that is earned or awarded pursuant to an airline bonus mileage  
2 program shall be deemed personally earned by or awarded to the  
3 individual traveler. Neither the earning or awarding of mileage  
4 credit, nor the redeeming of credit for actual travel, shall be subject  
5 to reporting pursuant to Section 84211.

6 (b) (1) Campaign funds shall not be used to pay for or reimburse  
7 the cost of professional services unless the services are directly  
8 related to a political, legislative, or governmental purpose.

9 (2) Expenditures by a committee to pay for professional services  
10 reasonably required by the committee to assist it in the performance  
11 of its administrative functions are directly related to a political,  
12 legislative, or governmental purpose.

13 (3) Campaign funds shall not be used to pay health-related  
14 expenses for a candidate, elected officer, or any individual or  
15 individuals with authority to approve the expenditure of campaign  
16 funds held by a committee, or members of his or her household.  
17 “Health-related expenses” includes, but is not limited to,  
18 examinations by physicians, dentists, psychiatrists, psychologists,  
19 or counselors, expenses for medications, treatments or medical  
20 equipment, and expenses for hospitalization, health club dues, and  
21 special dietary foods. However, campaign funds may be used to  
22 pay employer costs of health care benefits of a bona fide employee  
23 or independent contractor of the committee.

24 (c) Campaign funds shall not be used to pay or reimburse fines,  
25 penalties, judgments, or settlements, except those resulting from  
26 either of the following:

27 (1) Parking citations incurred in the performance of an activity  
28 that was directly related to a political, legislative, or governmental  
29 purpose.

30 (2) Any other action for which payment of attorney’s fees from  
31 contributions would be permitted pursuant to this title.

32 (d) Campaign funds shall not be used for campaign, business,  
33 or casual clothing except specialty clothing that is not suitable for  
34 everyday use, including, but not limited to, formal wear, if this  
35 attire is to be worn by the candidate or elected officer and is directly  
36 related to a political, legislative, or governmental purpose.

37 (e) (1) Except where otherwise prohibited by law, campaign  
38 funds may be used to purchase or reimburse for the costs of  
39 purchase of tickets to political fundraising events for the attendance  
40 of a candidate, elected officer, or his or her immediate family, or

1 an officer, director, employee, or staff of the committee or the  
2 elected officer's governmental agency.

3 (2) Campaign funds shall not be used to pay for or reimburse  
4 for the costs of tickets for entertainment or sporting events for the  
5 candidate, elected officer, or members of his or her immediate  
6 family, or an officer, director, employee, or staff of the committee,  
7 unless their attendance at the event is directly related to a political,  
8 legislative, or governmental purpose.

9 (3) The purchase of tickets for entertainment or sporting events  
10 for the benefit of persons other than the candidate, elected officer,  
11 or his or her immediate family are governed by subdivision (f).

12 (f) (1) Campaign funds shall not be used to make personal gifts  
13 unless the gift is directly related to a political, legislative, or  
14 governmental purpose. The refund of a campaign contribution  
15 does not constitute the making of a gift.

16 (2) Nothing in this section shall prohibit the use of campaign  
17 funds to reimburse or otherwise compensate a public employee  
18 for services rendered to a candidate or committee while on  
19 vacation, leave, or otherwise outside of compensated public time.

20 (3) An election victory celebration or similar campaign event,  
21 or gifts with a total cumulative value of less than two hundred fifty  
22 dollars (\$250) in a single year made to an individual employee, a  
23 committee worker, or an employee of the elected officer's agency,  
24 are considered to be directly related to a political, legislative, or  
25 governmental purpose. For purposes of this paragraph, a gift to a  
26 member of a person's immediate family shall be deemed to be a  
27 gift to that person.

28 (g) Campaign funds shall not be used to make loans other than  
29 to organizations pursuant to Section 89515, or, unless otherwise  
30 prohibited, to a candidate for elective office, political party, or  
31 committee.

32 (h) *Campaign funds shall not be used by a Member of the*  
33 *Legislature or a candidate for either house of the Legislature to*  
34 *pay a fine, a penalty, or legal fees arising out of a criminal*  
35 *violation or an alleged criminal violation unless those campaign*  
36 *funds are received or expended by a committee for the legal defense*  
37 *of the Member or candidate.*

38 *SEC. 8. Section 89518 of the Government Code is amended to*  
39 *read:*

1 89518. (a) Campaign funds shall not be used to compensate  
2 a candidate or elected officer for the performance of political,  
3 legislative, or governmental activities, except for reimbursement  
4 of out-of-pocket expenses incurred for political, legislative, or  
5 governmental purposes.

6 (b) Campaign funds shall not be used to compensate any  
7 individual or individuals with authority to approve the expenditure  
8 of campaign funds for the performance of political, legislative, or  
9 governmental activities, except as provided in subdivision (b) of  
10 Section 89513 and for reimbursement of out-of-pocket expenses  
11 incurred for political, legislative, or governmental purposes.

12 (c) *Campaign funds of a Member of the Legislature or of a*  
13 *candidate for either house of the Legislature shall not be used to*  
14 *compensate the spouse or a dependent of the Member or candidate.*

15 *SEC. 9. Section 68 of the Penal Code is amended to read:*

16 68. (a) Every executive or ministerial officer, employee, or  
17 appointee of the State of California, ~~a county or city~~ *a city, county,*  
18 *city and county* therein, or a political subdivision thereof, who  
19 asks, receives, or agrees to receive, any bribe, upon any agreement  
20 or understanding that his or her vote, opinion, or action upon any  
21 matter then pending, or that may be brought before him or her in  
22 his or her official capacity, shall be influenced thereby, is  
23 punishable by imprisonment in the state prison for ~~two, three, or~~  
24 ~~four~~ *four, six, or eight* years and, in cases in which no bribe has  
25 been actually received, by a restitution fine of not less than ~~two~~  
26 *four* thousand dollars ~~(\$2,000)~~ *(\$4,000)* or not more than ~~ten~~ *twenty*  
27 thousand dollars ~~(\$10,000)~~ *(\$20,000)* or, in cases in which a bribe  
28 was actually received, by a restitution fine of at least the actual  
29 amount of the bribe received or ~~two~~ *four* thousand dollars ~~(\$2,000)~~  
30 *(\$4,000)*, whichever is greater, or any larger amount of not more  
31 than double the amount of any bribe received or ~~ten~~ *twenty*  
32 thousand dollars ~~(\$10,000)~~ *(\$20,000)*, whichever is greater, and,  
33 in addition thereto, forfeits his or her office, employment, or  
34 appointment, and is forever disqualified from holding any office,  
35 employment, or appointment, in this state.

36 (b) In imposing a restitution fine pursuant to this section, the  
37 court shall consider the defendant's ability to pay the fine.

38 *SEC. 10. Section 86 of the Penal Code is amended to read:*

39 86. (a) Every Member of either house of the Legislature, or  
40 any member of the legislative body of a city, county, city and

1 county, school district, or other special district, who asks, receives,  
 2 or agrees to receive, any bribe, upon any understanding that his or  
 3 her official vote, opinion, judgment, or action shall be influenced  
 4 thereby, or shall give, in any particular manner, or upon any  
 5 particular side of any question or matter upon which he or she may  
 6 be required to act in his or her official capacity, or gives, or offers  
 7 or promises to give, any official vote in consideration that another  
 8 Member of the Legislature, or another member of the legislative  
 9 body of a city, county, city and county, school district, or other  
 10 special district shall give this vote either upon the same or another  
 11 question, is punishable by imprisonment in the state prison for  
 12 ~~two, three, or four~~ *four, six, or eight* years and, in cases in which  
 13 no bribe has been actually received, by a restitution fine of not less  
 14 than ~~two~~ *four* thousand dollars ~~(\$2,000)~~ *(\$4,000)* or not more than  
 15 ~~ten~~ *twenty* thousand dollars ~~(\$10,000)~~ *(\$20,000)* or, in cases in  
 16 which a bribe was actually received, by a restitution fine of at least  
 17 the actual amount of the bribe received or ~~two~~ *four* thousand dollars  
 18 ~~(\$2,000)~~ *(\$4,000)*, whichever is greater, or any larger amount of  
 19 not more than double the amount of any bribe received or ~~ten~~  
 20 *twenty* thousand dollars ~~(\$10,000)~~ *(\$20,000)*, whichever is greater.

21 ~~In~~

22 (b) *In imposing a fine under this section, the court shall consider*  
 23 *the defendant’s ability to pay the fine.*

24 *SEC. 11. No reimbursement is required by this act pursuant*  
 25 *to Section 6 of Article XIII B of the California Constitution because*  
 26 *the only costs that may be incurred by a local agency or school*  
 27 *district will be incurred because this act creates a new crime or*  
 28 *infraction, eliminates a crime or infraction, or changes the penalty*  
 29 *for a crime or infraction, within the meaning of Section 17556 of*  
 30 *the Government Code, or changes the definition of a crime within*  
 31 *the meaning of Section 6 of Article XIII B of the California*  
 32 *Constitution.*

33 *SEC. 12. The Legislature finds and declares that this bill*  
 34 *furtheres the purposes of the Political Reform Act of 1974 within*  
 35 *the meaning of subdivision (a) of Section 81012 of the Government*  
 36 *Code.*

37 *SEC. 13. This act is an urgency statute necessary for the*  
 38 *immediate preservation of the public peace, health, or safety within*  
 39 *the meaning of Article IV of the Constitution and shall go into*  
 40 *immediate effect. The facts constituting the necessity are:*

1 *In order to implement these proposals at the earliest possible*  
2 *time before the 2014 General Election, it is necessary that this act*  
3 *take immediate effect.*

4 SECTION 1. ~~Section 1748.1 of the Civil Code is amended to~~  
5 ~~read:~~

6 ~~1748.1. (a) A retailer in any sales, service, or lease transaction~~  
7 ~~with a consumer shall not impose a surcharge on a cardholder who~~  
8 ~~elects to use a credit card in lieu of payment by cash, check, or~~  
9 ~~similar means. A retailer may, however, offer discounts for the~~  
10 ~~purpose of inducing payment by cash, check, or other means not~~  
11 ~~involving the use of a credit card, provided that the discount is~~  
12 ~~offered to all prospective buyers.~~

13 ~~(b) A retailer who willfully violates this section by imposing a~~  
14 ~~surcharge on a cardholder who elects to use a credit card and who~~  
15 ~~fails to pay that amount to the cardholder within 30 days of a~~  
16 ~~written demand by the cardholder to the retailer by certified mail,~~  
17 ~~shall be liable to the cardholder for three times the amount at which~~  
18 ~~actual damages are assessed. The cardholder shall also be entitled~~  
19 ~~to recover reasonable attorney's fees and costs incurred in the~~  
20 ~~action.~~

21 ~~A cause of action under this section may be brought in small~~  
22 ~~claims court, if it does not exceed the jurisdiction of that court, or~~  
23 ~~in any other appropriate court.~~

24 ~~(c) A consumer shall not be deemed to have elected to use a~~  
25 ~~credit card in lieu of another means of payment for purposes of~~  
26 ~~this section in a transaction with a retailer if only credit cards are~~  
27 ~~accepted by that retailer in payment for an order made by a~~  
28 ~~consumer over a telephone, and only cash is accepted at a public~~  
29 ~~store or other facility of the same retailer.~~

30 ~~(d) Charges for third-party credit card guarantee services, when~~  
31 ~~added to the price charged by the retailer if cash were to be paid,~~  
32 ~~shall be deemed surcharges for purposes of this section even if~~  
33 ~~they are payable directly to the third party or are charged~~  
34 ~~separately.~~

35 ~~(e) It is the intent of the Legislature to promote the effective~~  
36 ~~operation of the free market and protect consumers from deceptive~~  
37 ~~price increases for goods and services by prohibiting credit card~~  
38 ~~surcharges and encouraging the availability of discounts by those~~  
39 ~~retailers who wish to offer a lower price for goods and services~~  
40 ~~purchased by some form of payment other than credit card.~~

1     ~~(f) This section does not apply to charges for payment by credit~~  
2     ~~card or debit card that are made by an electrical, gas, or water~~  
3     ~~corporation and approved by the Public Utilities Commission~~  
4     ~~pursuant to Section 755 of the Public Utilities Code.~~

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